

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA GAS COMPANY in Compliance with Resolution G-3334 For a System of Firm, Tradable Receipt Point Capacity Rights and Related Provisions. (U 904 G)

Application 03-06-040
(Filed June 30, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING TRANSWESTERN PIPELINE COMPANY'S MOTION
FOR CLARIFICATION**

Summary

Pursuant to Rules 45 of the Rules of Practice and Procedure, this ruling denies the Motion for Clarification of Transwestern Pipeline Company (Transwestern).

Background

On August 19, 2003, at a prehearing conference (PHC), I directed parties to hold a second meet-and-confer to develop a list of changed circumstances that have occurred since the Commission adopted Decision 01-12-018. The purpose of the exercise was to create a laundry list of alleged changed circumstances for the Assigned Commissioner to consider including within the scope of this proceeding.

On September 15, 2003, Transwestern filed a motion seeking clarification. Transwestern asserts that the conduct of Southern California Gas Company (SoCalGas) at a September 8, 2003, meet-and-confer and the list of "changed circumstances" developed at that meet-and-confer are inconsistent with the prior

directives of both the Commission and the Administrative Law Judge (ALJ). In its motion, Transwestern requests that the ALJ clarify that the list of changed circumstances should reflect the opposition of parties to the proposition that a particular item is a changed circumstance and/or to particular allegations of the implications or effects of a changed circumstance. Specifically, Transwestern requests that SoCalGas be directed to provide the other parties to the proceeding a meaningful opportunity to provide constructive and accurate input into a revised list of changed circumstances, which would replace the list previously filed by SoCalGas.

Transwestern's motion expresses a concern that the list of changed circumstances developed at the second meet-and-confer inaccurately conveys the impression that the parties agree that the Commission should address the issues identified therein in this proceeding. Transwestern also expresses concerns that at the second meet-and-confer participants could add items to the list of changed circumstances and their effects without any limitation. Further, participants were not permitted to strike any items from the list, nor were they allowed to note their objections. Transwestern also argues that under SoCalGas' format, parties have no opportunity whatsoever to challenge whether an item really is a changed circumstance.

On September 18, 2003, SoCalGas, Kern River Gas Transmission Company, Questar Southern Trails Pipeline Company, Wild Goose Storage Company, Marathon Oil Company, Southern California Generation Coalition, the California Department of General Services, and Indicated Producers (collectively "Joint Parties") filed a response to Transwestern's motion for clarification. Joint Parties assert that Transwestern's motion is an improper attempt to comment on the "Report On Second 'Meet-and-Confer' Meeting" (Meeting Report) filed by SoCalGas on September 12, 2003. Accordingly, Joint Parties request that the

motion should be rejected and its comments on the Meeting Report should be ignored. In support of their position, Joint Parties cite various portions of the transcript from the August 19, 2003 PHC which directed parties to hold a second meet-and-confer and described my expectations.

Discussion

Transwestern's motion raises the issue of whether it was denied a fair opportunity to be heard. Transwestern complains that the format of the second meet-and-confer and more importantly the format of the report resulting from the meet-and-confer have denied Transwestern a fair opportunity to express its position on the issues raised by other parties.

Transwestern's position lacks merit. The purpose of the second meet-and-confer was to establish a list of what parties alleged are changed circumstances for the use of the assigned ALJ and Assigned Commissioner in developing a scoping memo. To the extent "changed circumstances" contained in the second meet-and-confer report are included within the scope of this proceeding, Transwestern will have an opportunity to respond in its testimony, cross-examine other parties at hearing and file closing briefs to address any changed circumstances contained in the second meet-and-confer report and included within the scope of this proceeding. Consequently, the motion of Transwestern should be denied.

IT IS RULED that: the Transwestern Pipeline Company's Motion for Clarification is denied.

Dated September 29, 2003, at San Francisco, California.

/s/ JOSEPH DEULLOA by LTC

Joseph DeUlloa
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Transwestern Pipeline Company's Motion for Clarification on all parties of record in this proceeding or their attorneys of record.

Dated September 29, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

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